IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5238 OF 1998

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1. Whether reporters of local papers may be allowed to see the judgment ?

2. To be referred to the reporters or not ?

3. Whether their lordships wish to see the fair copy of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?

5. Whether it is to be circulated to the Civil Judge?

M/S.COATS VIYELLA INDIA LTD.
VERSUS
GUJARAT INDUSTRIAL DEVELOPMENT CORPN. & ORS.

Appearance:
MR SUREN M SHAH for petitioner

Coram: MR.JUSTICE S.K. Keshote,J
Date of order: 09/05/2000

C.A.V. ORDER

#. Heard the learned counsel for the petitioner.

#. The respondent-Corporation allotted plot N.203/2 admeasuring 25,462 sq.mts. at its Panoli Industrial Estate to the petitioner-company on 21st March 1995. The possession of the plot has also been handed over to the petitioner. As against the total price of plot of Rs.56,87,500/=, the petitioner deposited a sum of

Rs.31,70,262/= with the Corporation. On 10th May 1995, the petitioner executed a licence agreement for the said plot in favour of the Corporation. After taking this plot on 16th October, 1996, the petitioner-company decided to surrender the possession thereof to the Corporation and accordingly a request has been made. On 4.2.97, the Regional Manager of the Corporation was pleased to pass an order of accepting surrender of the plot after deducting Rs.11,86,534/= out of the total amount of Rs.31,70,262/= deposited by petitioner, and balance has been ordered to be refunded. This deduction made is stated to be illegal. It is further said that the Corporation has failed to provide necessary facilities of drainage, water, etc. Reference has been made to the case of M/s.Voltas Limited, Mumbai. That company has also surrendered the plot but in its case substantial amount was refunded to it by the Corporation on 12.2.95. So the dispute pertains here to the question whether the Corporation could have deducted the amount as alleged in the special civil application while accepting surrender of the plot made by petitioner?.

#. The relation between the petitioner and the respondent is regulated under the licence agreement. Otherwise also, whether this amount could have been deducted or not, is not the question to be gone into in this special civil application under Article 226 of the Constitution. Moreover, this order for deduction has been made on 4.2.97 and the petitioner has filed this writ petition in this court on 3rd July 1998, i.e. after more than one year and five months. No explanation whatsoever for this inordinate delay has also been furnished. For this dispute appropriate remedy for the petitioner is to file a civil suit and not this writ petition under Article 226 of the Constitution. The surrender of the plot has been made after retaining possession for more than one year and five months and six days as per the petitioner's case. The petitioner has admitted in his petition that respondent-Corporation as per the Rules and Regulations is entitled to make certain deductions from the amount deposited by the allottee, I fail to see what illegality is committed by the Corporation in case it has passed the order for deduction of Rs.31,70,262 - Rs.11,86,534 = Rs.19,83,728/=. The petitioner has not given out as to how this amount as ordered to be deducted is contrary to the Rules and Regulations of the Corporation. In the case of M/s.Voltas Ltd., the petitioner has not given out all the necessary details and facts as to what was the amount deposited by M/s.Voltas Ltd. and on surrender of plot, what amount has been deducted. If we go by the document,

Annexure-F, I find that about 50% of the amount deposited has been refunded to M/s.Voltas Limited. In the present case also, about 50% of the amount deposited has been refunded to the petitioner.

#. In the result, this special civil application fails and the same is dismissed.

(S.K.Keshote, J.)

(sunil)